

SECOND DIVISION

[G.R. No. 189812, September 01, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
REYNALDO BATURI, ACCUSED-APPELLANT.**

DECISION

DEL CASTILLO, J.:

This is an appeal from the July 7, 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR-H.C. No. 02929 that affirmed *in toto* the May 30, 2007 Decision^[2] of the Regional Trial Court (RTC) of Rosales, Pangasinan, Branch 53, in Criminal Case No. 4938-R, finding appellant Reynaldo Baturi (appellant) guilty beyond reasonable doubt of violating Section 5, Article II of Republic Act (RA) No. 9165^[3] and imposing upon him the penalty of life imprisonment and a fine of P500,000.00.

Factual Antecedents

The Information^[4] contained the following accusatory allegations against appellant:

That on or about the 7th day of August, 2005, in the morning, in Brgy. Carmen East, Municipality of Rosales, Province of Pangasinan, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain and without being authorized by law to possess and [sell], did then and there, willfully, unlawfully, and feloniously [sell] ten (10) sachet[s] of heat[-]sealed transparent plastic bags containing white crystalline substance known as "shabu" with a total weight of 49.1 grams, a dangerous drug.

Contrary to Article II, Section 5, Republic Act 9165.^[5]

During arraignment, appellant entered a plea of "not guilty." After the pre-trial conference, trial ensued.

Version of the Prosecution

From the testimonies^[6] of PO3 Marlo Velasquez (PO3 Velasquez) and Forensic Chemist P/Insp. Emelda Besarra-Roderos (P/Insp. Roderos), the following facts emerged:

On August 6, 2005, a confidential informant reported to the Philippine Drug Enforcement Agency (PDEA) office in Dagupan City the illegal drug activities of appellant, a.k.a. Naldong, in Brgy. Carmen East, Rosales, Pangasinan. PO3

Velasquez received and relayed the information to SPO2 Pedro Rabago (SPO2 Rabago), the Special Enforcement Team Leader of the PDEA, who, in turn, ordered the former to conduct a surveillance to verify the information.

Together with SPO1 Flash Ferrer (SPO1 Ferrer) and the confidential informant, PO3 Velasquez proceeded to Brgy. Carmen East to conduct the surveillance. Upon reaching the area, the confidential informant introduced PO3 Velasquez to appellant as a buyer of *shabu*. The two closed a deal regarding the sale of 10 “bultos” of *shabu* for the discounted price of P90,000.00 that would transpire the next day in appellant’s house.

SPO2 Rabago thus immediately formed a team to conduct an entrapment operation where PO3 Velasquez was to act as poseur-buyer and SPO1 Ferrer as back-up. The buy-bust team then placed on top of a bundle of boodle money a 500-peso bill marked with the initials of PO3 Velasquez and SPO1 Ferrer which were MMV and FF, respectively. It was further agreed that SPO1 Ferrer would give PO3 Velasquez a call in his cellular phone as a pre-arranged signal that the sale of *shabu* is already consummated.

The next day, August 7, 2005, the buy-bust team coordinated with the police authorities stationed in the Municipality of Rosales and held a final briefing before proceeding to appellant’s abode. Upon arrival thereat, PO3 Velasquez and the confidential informant approached appellant who was sitting in front of his house while SPO1 Ferrer positioned himself about 15 meters away from them. When PO3 Velasquez informed appellant that he already had the payment, appellant took out a carton, opened it and showed the contents thereof to PO3 Velasquez, who, in turn, gave the boodle money.

PO3 Velasquez examined the contents of the carton and upon seeing that it contained plastic sachets with white crystalline granules, he made the pre-arranged signal. SPO1 Ferrer immediately showed up and recovered the buy-bust money from appellant, while PO3 Velasquez seized the carton containing the sachets of white crystalline granules. After informing appellant of his rights, the police officers arrested and took him to the PDEA office for further investigation.

A Certificate of Inventory was then prepared by the police authorities which was signed by two *barangay* officials and a media representative. Appellant was requested to sign the certificate of inventory which he refused. This whole process was photographed. Thereafter, on the basis of a formal request,^[7] the seized *shabu* was referred and delivered to the Philippine National Police (PNP) Provincial Crime Laboratory on August 8, 2005. P/Insp. Roderos issued Chemistry Report No. D-121-2005-U^[8] stating that the white crystalline substance was positive for *shabu*.

Version of the Defense

Appellant denied selling *shabu* and claimed that he was a victim of frame-up by the PDEA. He recalled that on August 7, 2005, he was standing at the street corner near his house waiting for the funeral procession of his deceased nephew, Ricky Baturi, to pass. Police operatives arrived shortly and asked if he is Naldong. After he answered in the affirmative, he was asked as to the whereabouts of a former co-worker, Kamlon Montilla (Montilla). Appellant replied that he had no knowledge of the

present location of Montilla. Dissatisfied with his answer, the police apprehended and took him inside their van. This was witnessed by his children. He was brought to Villasis where he was repeatedly asked at gunpoint about the whereabouts of Montilla to which he consistently replied that he did not know. He was thereafter detained. Appellant claimed that it was only during his arraignment that he discovered that he was being charged with illegal sale of *shabu*.^[9]

Appellant's daughters Maribel Baturi and Rizalyn Raquedan corroborated his testimony.^[10]

Ruling of the Regional Trial Court

Giving credence to PO3 Velasquez' testimony, the RTC convicted appellant of the crime charged and disposed of the case in its May 30, 2007 Decision^[11] as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused REYNALDO BATURI GUILTY beyond reasonable doubt of the crime of Illegal Sale of Methamphetamine Hydrochloride or "shabu" in violation of Section 5 of Republic Act No. 9165.

Considering that the penalty of death was abolished, this Court hereby sentence[s] the accused to suffer the penalty of life imprisonment and a fine of P500,000.00.

The sachets of shabu are hereby confiscated in favor of the government. Let the same be turned over to the Philippine Drug Enforcement Agency for destruction in accordance with law.

SO ORDERED.^[12]

Appellant filed a notice of appeal,^[13] which was approved by the RTC. Hence, the entire records of the case were forwarded to the CA.^[14]

Ruling of the Court of Appeals

In his Brief,^[15] appellant pointed out that the buy-bust team failed to comply with the procedure governing the handling, custody and disposition of the illegal drugs. Because of this, there was failure on the part of the prosecution to establish the *corpus delicti*. Hence, the RTC erred in finding him guilty of the crime charged.

Negating appellant's claims, appellee, through the Office of the Solicitor General (OSG), averred that the confiscated drug was properly inventoried and this was even witnessed by two *barangay kagawads*, a representative of the media and appellant himself. A Certificate of Inventory was then prepared which was signed by the said two *barangay kagawads* and the media representative. Then, a request letter for laboratory examination was signed by SPO4 Rabago. Contained in the said letter was the fact that PO3 Velasquez delivered the seized drug to the Crime Laboratory and that P/Insp. Roderos received the same. To the OSG, these circumstances clearly showed that the prosecution was able to prove the unbroken

chain of custody of the confiscated drug. Moreover, there was no reason for the police to falsely testify against appellant. In view of these, the presumption that the police authorities regularly performed their duties must be upheld.^[16]

Finding that the seizure, handling, custody and examination of the seized drug were properly documented and undertaken in an uninterrupted manner, and the consummation of illegal sale of *shabu* duly established by the prosecution, the CA, in its July 7, 2009 Decision,^[17] ruled as follows:

WHEREFORE, premises considered, the instant appeal is **DENIED**, and accordingly, the herein assailed May 30, 2007 Decision of the trial court is hereby **AFFIRMED IN TOTO**.

SO ORDERED.^[18]

Hence, this appeal.

Assignment of Error

Appellant imputes error upon the RTC^[19] and the CA^[20] in finding him guilty of the crime charged despite the prosecution's failure to prove his guilt beyond reasonable doubt.

Our Ruling

The appeal is unmeritorious.

Elements for the Prosecution of Illegal Sale of Shabu

In a successful prosecution for illegal sale of *shabu*, the following elements must concur: "(1) the identity of the buyer and the seller, the object and the consideration; and (2) the delivery of the thing sold and the payment therefor. x x x What is material in a prosecution for illegal sale of dangerous drugs is the proof that the transaction or sale actually took place, coupled with the presentation in court of the *corpus delicti*"^[21] or the illicit drug in evidence.

In this case, the prosecution successfully established all the essential elements of the illegal sale of *shabu*. PO3 Velasquez, who acted as poseur-buyer, positively identified appellant as the seller of the *shabu* and categorically testified that the *shabu* was received by him, and the payment therefor by appellant, in a legitimate buy-bust operation. He narrated, viz:

- A - That on or about 11:00 o'clock the morning of August 6, 2005 a certain confidential informant reported to our office about the illegal activity of one @ "Naldong" of Carmen East, Rosales, Pangasinan, sir.
- Q - Did he give you the real name of that alyas Naldong?
- A - No, sir, only a.k.a. Naldong.
- Q - To whom did this confidential asset report?

A - To me, sir.

Q - And what action did you take when that information was relayed to you?

A - I relayed the information to our Special Enforcement Team Leader, sir.

Q - Who is your team leader then?

A - SPO2 Pedro S. Rabago, sir.

Q - And what measures did Police Officer Rabago take, if any, upon receiving that information relayed by you?

A - They tasked us to conduct surveillance, sir.

Q - Did you conduct that surveillance as ordered by your superior officer?

A - Yes, sir.

Q - How did you conduct that surveillance?

A - We went to the place and as part of our surveillance, [I] and the CI went directly to the place of a.k.a. Naldong, sir.

Q - Where?

A - In Brgy. Carmen East, Rosales, Pangasinan, sir.

COURT:

Q - What is that CI?

A - Confidential informant, your Honor.

PROSECUTOR MATRO: (CONTG)

Q - Aside from your confidential informant, did you have any companion at that time?

A - Yes, sir.

Q - Who?

A - SPO1 Flash Ferrer, sir.

Q - Did you reach that place of alyas Naldong?

A - Yes, sir.

Q - What transpired, if any, when you reached that place?

A - The confidential informant introduced me as a buyer, sir.

Q - To whom?

A - To a.k.a. Naldong, sir.

Q - How did you know that the CI introduced you to Naldong?

A - The CI said "this is the buyer of shabu" then Naldong said, "I will give a discount if you will buy a large amount of shabu", sir.

Q - When alyas Naldong told you that, what was your reply?

A - I told Naldong that I am going to buy 10 bultos of shabu, sir.

Q - When you said bultos, what does that mean?

A - It was placed in a shabu [sic] weighing more or less 4.5 grams or 5 grams, sir.

Q - And what else did you talk about?

A - When I told x x x Naldong that x x x I am going to buy 10 bultos, I asked him how much is the cost of that and he told me P9,500 per buluto but since I ordered large amount of shabu, he said he will give it for P9,000 or P90,000 for ten (10) bultos, sir.

Q - So do we understand that the cost of one (1) buluto is P9,500 but if you order large quantity you will be given a discount of P500 per buluto?

A - Yes, sir.

Q - So the 10 bultos you ordered is worth P90,000?

A - Yes, sir.